

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 486

Introduced by Business and Labor Committee:
Cunningham, 40, Chairperson; Burling, 33; Combs, 32;
Kremer, 34; Preister, 5; Schimek, 27

Read first time January 14, 2005

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to employment security law; to amend section
2 48-649, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to the combined tax rate; to provide
4 an operative date; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-649, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 48-649. The commissioner shall, for each calendar year,
4 determine the combined tax rate applicable to each employer on the
5 basis of his or her actual experience in the payment of
6 contributions and with respect to benefits charged against his or
7 her separate experience account, in accordance with the following
8 requirements:

9 (1) Commencing January 1, 1996, the commissioner shall,
10 in April or May, for each calendar year, and based upon information
11 available through the department, determine the state unemployment
12 insurance tax rate for the following year. The state unemployment
13 insurance tax rate shall be zero percent if:

14 (a) The minimum reserve ratio for the lowest combined tax
15 rate exceeds ten and five-tenths percent for the current year;

16 (b) The average balance in the State Unemployment
17 Insurance Trust Fund at the end of any three months in the
18 preceding calendar year is greater than one percent of state
19 taxable wages for the same preceding year;

20 (c) The balance in the State Unemployment Insurance Trust
21 Fund equals or exceeds thirty percent of the average month end
22 balance of the state's account in the Unemployment Trust Fund for
23 the three lowest calendar months in the preceding year; or

24 (d) The state advisory council determines that a zero
25 percent state unemployment insurance tax rate is in the best
26 interests of preserving the integrity of the state's account in the
27 Unemployment Trust Fund;

28 (2) If the state unemployment insurance tax rate is not

1 zero percent as determined in this section, the combined tax rate
2 shall be divided so that eighty percent of the combined tax rate
3 equals the contribution rate and twenty percent of the combined tax
4 rate equals the state unemployment insurance tax rate. ~~except for~~
5 ~~employers who are assigned the five and four-tenths percent~~
6 ~~combined tax rate. For those employers, the state unemployment~~
7 ~~insurance tax rate shall equal zero and their combined tax rate~~
8 ~~shall equal their contribution rate.~~ When the state unemployment
9 insurance tax rate is determined to be zero percent pursuant to
10 subdivision (1) of this section, the contribution rate for all
11 employers shall equal one hundred percent of the combined tax rate;
12 (3) An employer's contribution rate shall be three and
13 five-tenths percent of his or her annual payroll and for calendar
14 years beginning 1996 an employer's combined tax rate shall be three
15 and five-tenths percent of his or her annual payroll unless and
16 until (a) benefits have been payable from and chargeable to his or
17 her experience account throughout the preceding one calendar year
18 and (b) contributions have been payable to the fund and credited to
19 his or her experience account with respect to the two preceding
20 calendar years. Subject to fair and reasonable rules and
21 regulations of the commissioner issued with due regard for the
22 solvency of the fund, the combined tax rate required of each
23 employer who meets the requirements of subdivisions (a) and (b) of
24 this subdivision shall be based directly on his or her
25 contributions to and benefit experience of his or her experience
26 account and shall be determined by the commissioner for each
27 calendar year at its beginning. Such rate shall not be greater
28 than three and five-tenths percent of his or her annual payroll if

1 his or her experience account exhibits a positive balance as of the
2 beginning of such calendar year, but for any employer who has been
3 subject to the payment of contributions for any two preceding
4 calendar years, regardless of whether such years are consecutive,
5 and whose experience account exhibits a negative balance as of the
6 beginning of such calendar year, the rate shall be greater than
7 three and five-tenths percent of his or her annual payroll but not
8 greater than ~~five~~ seven and four-tenths percent of his or her
9 annual payroll until such time as the experience account exhibits a
10 positive balance, and thereafter the rate shall not be greater than
11 three and five-tenths percent of his or her annual payroll. The
12 standard rate shall be ~~five~~ seven and four-tenths percent of the
13 employer's annual payroll. As used in this subdivision, standard
14 rate shall mean the rate from which all reduced rates are
15 calculated;

16 (4) Any employer may at any time make voluntary
17 contributions, additional to the required contributions, to the
18 fund to be credited to his or her account. Voluntary contributions
19 received after March 10 of any year shall not be used in rate
20 calculations for the same calendar year;

21 (5) As used in sections 48-648 to 48-654, the term
22 payroll shall mean the total amount of wages during a calendar
23 year, except as otherwise provided in section 48-654, by which the
24 combined tax was measured; and

25 (6) (a) The state or any of its instrumentalities shall
26 make payments in lieu of contributions in an amount equal to the
27 full amount of regular benefits plus one-half of the amount of
28 extended benefits paid during each calendar quarter that is

1 attributable to service in employment of the state or any of its
2 instrumentalities. The commissioner after the end of each calendar
3 quarter shall notify any state instrumentality or other public
4 employer of the amount of regular benefits and one-half the amount
5 of extended benefits paid that are attributable to service in its
6 employment and the instrumentality or public employer so notified
7 shall reimburse the fund within thirty days after receipt of such
8 notice; (b) after December 31, 1977, the state or any of its
9 political subdivisions and any instrumentality of one or more of
10 the foregoing or any other governmental entity for which services
11 in employment as is provided by subdivision (4)(a) of section
12 48-604 are performed shall be required to pay contributions and
13 after December 31, 1996, combined tax on wages paid for services
14 rendered in its or their employment on the same basis as any other
15 employer who is liable for the payment of combined tax under the
16 Employment Security Law, unless the state or any political
17 subdivision thereof and any instrumentality of one or more of the
18 foregoing or any other governmental entity for which such services
19 are performed files with the commissioner its written election not
20 later than January 31, 1978, or if such employer becomes subject to
21 this section after January 1, 1978, not later than thirty days
22 after such subjectivity begins, to become liable to make payments
23 in lieu of contributions in an amount equal to the full amount of
24 regular benefits plus one-half of the amount of extended benefits
25 paid during each calendar quarter that is attributable to service
26 in employment of such electing employer prior to December 31, 1978,
27 and in an amount equal to the full amount of regular benefits plus
28 the full amount of extended benefits paid during each calendar

1 quarter that is attributable to service in employment of such
2 electing employer after January 1, 1979. Eligible employers
3 electing to make payments in lieu of contributions shall not be
4 liable for state unemployment insurance tax payments. The
5 commissioner, after the end of each calendar quarter, shall notify
6 any such employer that has so elected of the amount of benefits for
7 which it is liable to pay pursuant to its election that have been
8 paid that are attributable to service in its employment and the
9 employer so notified shall reimburse the fund within thirty days
10 after receipt of such notice; and (c) any employer which makes an
11 election in accordance with subdivision (b) of this subdivision to
12 become liable for payments in lieu of contributions shall continue
13 to be liable for payments in lieu of contributions for all benefits
14 paid based upon wages paid for service in employment of such
15 employer while such election is effective and such election shall
16 continue until such employer files with the commissioner, not later
17 than December 1 of any calendar year, a written notice terminating
18 its election as of December 31 of that year and thereafter such
19 employer shall again be liable for the payment of contributions and
20 for the reimbursement of such benefits as may be paid based upon
21 wages paid for services in employment of such employer while such
22 election was effective.

23 Sec. 2. This act becomes operative on January 1, 2006.

24 Sec. 3. Original section 48-649, Reissue Revised
25 Statutes of Nebraska, is repealed.